



The services of a registered attorney or agent are strongly recommended, especially in view of the complexities of the patent laws and regulations. The USPTO cannot prosecute this application on behalf of petitioner; e.g., prepare a proper reply for

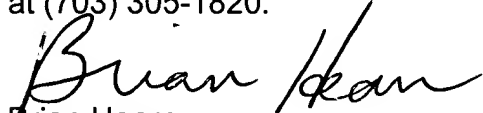
applicant. Likewise, the USPTO cannot recommend the services of a particular attorney or agent to the exclusion of any other. Petitioner may wish to consult his local telephone directory or can obtain a listing of registered practitioners in his area by accessing the USPTO web site at: www.uspto.gov, and then click on "Patents;" and on that page under the caption "Resources;" click on "Locate Registered Attorneys and Agents." Petitioner may also obtain general information from the Inventor's Assistance Center at 1-800-786-9199.

Further, as many of the fees that may now or soon will be applicable to this application at this stage of prosecution such as for example extension of time fees, Notice of Appeal Fee etc. are all a requirement of the patent statute, they cannot be waived. The payment of a statutorily required fee is obligatory upon the applicant and collection of the statutorily required fee is likewise obligatory upon the Office. Boyden v. Commissioner of Patents, 441 F.2d 1041, 1043, 168 USPQ 680, 681 (D.C. Cir.), *cert denied* 404 US 842, 868, 171 USPQ 312 (1971); see also Giuliani v. United States, 8 USPQ2d 1095 (D. Hi 1988), *aff'd mem.*, 878 F.2d 1444 (Fed. Cir. 1989). The USPTO has no discretion to proceed in the absence of such statutorily required payments, and also lacks authority to permit a party to proceed *in forma pauperis* before it. Boyden, *supra*. Since 37 CFR 1.183, by its terms may not be invoked contrary to the statute, the requested relief from any applicable fees cannot be favorably considered.

As the fee was required for consideration of the petition, the fee is not refundable upon the rendering of the decision, regardless of the outcome of the decision. Ex parte VENTURA CITRUS ASSOCIATION, 71 USPQ 103, 104 (Comm'r Pat. 1946).

Lastly, it is noted that the instant communication was improperly captioned by applicant for more than one area of the USPTO *i.e.*, the Office of Petitions and OED. However, these are separate areas of the USPTO and treat different matters. Accordingly, 37 CFR 1.4(c) requires that applicant have filed two separate communications each separately captioned for the proper area. The Office of Petitions has treated the petition as a matter under its jurisdiction but has no jurisdiction of matters before OED. Further, OED cannot decide petitions, which is a matter for this office. Petitioner is also reminded that, pursuant to 37 CFR 1.1(a)(3)(ii) communications related to disciplinary proceedings are not properly mailed to the same address as for correspondence directed to patent applications. Accordingly, should petitioner wish any non petitionable matter mentioned in the instant communication considered by OED, it should be sent in a separate communication addressed to, and captioned for, OED at the USPTO address noted above.

Telephone inquiries relative to this decision only should be directed to the undersigned at (703) 305-1820.



Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy